

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 94-425-E - ORDER NO. 94-809 ✓  
AUGUST 25, 1994

IN RE:	Application of Duke Power Company	)	
	for Approval of Settlement Agreement	)	ORDER
	Between Duke Power Company and	)	APPROVING
	Piedmont Municipal Power Agency	)	SETTLEMENT
	and North Carolina Municipal Power	)	AGREEMENT
	Agency Number 1	)	

On August 17, 1994, Duke Power Company (Duke) filed an Application with the Public Service Commission of South Carolina (the Commission) seeking approval of a Settlement Agreement (the Settlement Agreement) entered into by Duke and Piedmont Municipal Power Agency (PMPA) and North Carolina Municipal Power Agency (NCMPA). Duke also seeks authorization of the use of the accounting and ratemaking treatment previously approved by the Commission for Purchased Capacity costs for jurisdictional amounts incurred under the Settlement Agreement.

The Commission has reviewed Duke's Application and the Settlement Agreement attached thereto. Based on the evidence before the Commission, the Commission now makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Duke is a public utility corporation organized and existing under the laws of the State of North Carolina. Duke is engaged in the business of developing, generating, transmitting, distributing, and selling electric power and energy to the public within the States of North and South Carolina and is subject to the

jurisdiction of this Commission.

2. As of March 6, 1978, and August 1, 1980, Duke entered into separate Interconnection Agreements (the Interconnection Agreements) with NCMPA and PMPA. The Interconnection Agreements were entered into in connection with Duke's sale of interests in its two-unit Catawba Nuclear Station (Catawba) to PMPA and NCMPA. The Interconnection Agreements and certain related agreements were approved by Order of the Commission on September 19, 1978, with regard to NCMPA and December 13, 1981, with regard to PMPA. Based on these agreements and the sales of portions of the plant to Saluda River Electric Cooperative, Inc. (Saluda River) and North Carolina Electric Membership Corporation (NCEMC), Duke retained a 12.50% interest in Catawba.

3. The Interconnection Agreements contain provisions for Duke to purchase amounts of capacity (Purchased Capacity) from PMPA's and NCMPA's ownership interests in Catawba through the year 2000. These provisions were primarily required by PMPA and NCMPA to provide economic feasibility because the amount of plant purchased by them in the initial years of Catawba's operation was in excess of the baseload needs of their members.

4. In Duke's 1985 and 1986 general rate cases, SCPSC Docket Nos. 85-78-E and 86-188-E, in which the cost of the Catawba Units was reflected in rates, the Commission also approved the inclusion of Purchased Capacity costs paid to the joint owners in rates charged to Duke's South Carolina retail customers. In those dockets the Commission ordered that such costs be recovered in levelized amounts and that the unrecovered payments be placed in a

deferred account until such costs were ultimately collected.

5. The price Duke pays for Purchased Capacity is based on a formula contained in exhibits to the Interconnection Agreements. PMPA and NCMPPA have raised several issues related to Purchased Capacity -- three of which are being litigated in two separate arbitration proceedings. These issues include whether the cost of long-term debt and preferred stock used in the rate of return component of the Purchased Capacity formula should be fixed as of the date of commercial operation of Catawba Unit 1 and whether the allowed rate of return incorporated in the billings for Purchased Capacity should reflect the effect of subsequent court action.

6. Duke has previously entered into a Settlement Agreement with the Cooperative owners dated January 24, 1994, which resolved certain issues concerning Purchased Capacity that were being disputed in three arbitration proceedings. On February 25, 1994, the Commission issued an Order in which that Settlement Agreement was approved.

7. Duke has entered into a similar Settlement Agreement with PMPA and NCMPPA with respect to the issues involved in the arbitrations discussed in paragraph 5 above and certain other items in dispute that are set forth in Section 4 of the Settlement Agreement. Three of the issues are the same as those disputed by the Cooperatives and resolved in the Settlement Agreement between Duke and the Cooperatives. The Settlement Agreement with the Municipals is attached to the Duke Application and requires Duke to pay PMPA and NCMPPA certain additional amounts for Purchased Capacity. The Settlement Agreement resolved all issues raised

among Duke, PMPA, and NCMFA in the two arbitrations as well as the contested issues set forth in Section 4 of the Settlement Agreement. The terms of the Settlement Agreement require approval of the Commission before it is effective.

8. The Commission finds that the levelization of Purchased Capacity costs and resultant accounting procedures previously approved should be used to capture any of the costs arising out of this Settlement.

IT IS THEREFORE ORDERED:


1. That the findings and conclusions of this Order are hereby adopted by the Commission.

2. That the Settlement Agreement entered into by Duke and PMPA and NCMFA is hereby approved.

3. That the use of the accounting and ratemaking treatment previously approved by the Commission for Purchased Capacity costs for jurisdictional amounts incurred under the Settlement Agreement is approved.

4. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)